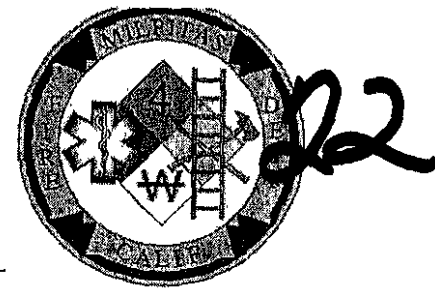


# MEMORANDUM

*Office of the Fire Chief*



**To:** Honorable Mayor and Councilmembers  
**Through:** Tom Wilson, City Manager and Blair King, Assistant City Manager  
**From:** Bill Weisgerber, Fire Chief  
**By:** Bobby Dixon, Assistant Fire Chief  
**Subject:** City Council Briefing  
**Date:** September 29, 2003

**BACKGROUND:** The City of Milpitas owns a modular building with full classroom facility capabilities, located at Fire Station 1, 777 S. Main Street. In the past, this building has served as the fire training classroom facility and as a temporary fire station during construction of the new fire station one. The building currently serves as an overflow City conference/meeting room, and is utilized every Wednesday as a distribution point by the Second Harvest Food Bank.

In an endeavor to generate revenue for the City, Fire Department Staff considered leasing the modular classroom space to an outside training agency. The Northern California Training Institute (NCTI) has now expressed an interest in leasing these classroom facilities. NCTI is the paramedic-training institute for American Medical Response--the exclusive Emergency Medical Services and transport provider for Santa Clara County. NCTI would like to lease the modular facility two (2) days per week, approximately nine (9) hours per day, from October 2003 through April 2004, for the purpose of conducting paramedic-training courses.

As compensation for leasing the modular trailer at Fire Station 1, NCTI will pay the City an amount of \$11,000 per 6-month training session. This stipend can be taken by the City in one of two forms: either through enrollment of one Fire Department personnel in the complete paramedic training course through NCTI; or, the Fire Department may elect to receive a cash equivalent to be paid by NCTI to the City, if there are no opportunities to enroll fire personnel in a paramedic-training course.

NCTI will provide a comprehensive paramedic certification training program for the Milpitas Fire Department, at a value of \$11,000.00 per student/program. The Fire Department may elect to use the allowance to enroll personnel in the program, reserve positions in future programs, or receive the cash equivalent to be paid by NCTI to the City. NCTI will also provide \$1,200 in janitorial services for the modular building, over the 6-month period of the agreement. The agreement between NCTI and the City of Milpitas Fire Department has been drafted, reviewed by the City Attorney, and is included in the Council's agenda packet.

**RECOMMENDATION:** Authorize the City Manager to execute an agreement between the City of Milpitas and the Northern California Training Institute for use of City facilities.

**AGREEMENT BETWEEN  
MILPITAS FIRE DEPARTMENT  
AND  
NORTHERN CALIFORNIA TRAINING INSTITUTE**

**THIS AGREEMENT** is made and entered into this eleventh day of August 2003, by and between the MILPITAS FIRE DEPARTMENT, (hereinafter referred to as the "MFD") and NORTHERN CALIFORNIA TRAINING INSTITUTE, (hereinafter referred to as "NCTI").

WHEREAS, the MFD desires to conduct paramedic education; and

WHEREAS, NCTI has the necessary professional expertise and skill to provide paramedic training to firefighters and other individuals; and

WHEREAS, NCTI desires to utilize classroom facilities at 777 S. Main Street, Milpitas, California ("PROPERTY") to conduct such training classes pursuant to the terms set forth below; and

WHEREAS, the MFD may elect to receive consideration for leasing said classrooms, specifically in the form of paramedic instruction to its firefighter employees; now, therefore,

THE PARTIES HEREBY AGREE AS FOLLOWS:

**SECTION 1. NCTI RIGHT TO USE MFD CLASSROOM FACILITIES AND  
COMPENSATION TO CITY**

NCTI has the right to use classroom facilities at 777 S. Main Street, Milpitas, California, two (2) days per week, approximately nine (9) hours per day, for conducting paramedic training courses; and the use of auxiliary classrooms for lab areas. A more detailed description of the classes that NCTI will conduct on the PROPERTY is set forth in Exhibit A. NCTI shall not make any improvements and shall be responsible for any damages to the PROPERTY caused by NCTI, its officers, employees, agents, contractors, or students. In consideration of MFD's providing access to the class room facilities, NCTI agrees to provide compensation to MFD in the form of discounts on courses given to MFD employees, as set forth in Exhibit B.

**SECTION 2. TERM AND TERMINATION**

The term of this AGREEMENT shall be from September 26, 2003 to April 30, 2004. NCTI may exercise its option to extend this agreement through April 30, 2005 by providing notice of the exercise of said option to MFD 30 days prior to April 30, 2004..

Either party may terminate this AGREEMENT with or without cause by providing thirty (30) days notice, in writing, to the other party.

The MFD may terminate this AGREEMENT immediately upon written notice upon a material breach of the terms of this AGREEMENT.

In the event of termination, where NCTI is conducting paramedic training of MFD employees under the terms of the AGREEMENT, NCTI shall deliver to MFD copies of all reports, documents and other work performed by NCTI under this AGREEMENT, and upon receipt thereof, MFD shall pay NCTI for services performed through the date of termination.

### **SECTION 3. ASSIGNMENT OF CONTRACT**

NCTI shall not assign or transfer any interest in this Agreement without the prior written consent of MFD, and any attempt by NCTI to assign this or any rights, duties, or obligations arising hereunder shall be null and void and of no effect.

### **SECTION 4. INDEMNIFICATION**

To the fullest extent permitted by law, both Parties shall mutually hold harmless, defend and indemnify the other party, its City Council, officers, employees and agents (collectively "Indemnitees") from and against any and all claims, losses, damages, liabilities or expenses, including reasonable attorney fees, incurred in the defense thereof, for the death or injury to any person or persons (including employees of NCTI or MFD) or damage of any property (including property of NCTI or MFD) which arises out of or is any way connected with the performance of this Agreement (collectively "Liabilities") except where such Liabilities are proximately caused solely by the negligence or willful misconduct of any Indemnitee.

### **SECTION 5. INSURANCE AND BOND**

NCTI shall at all times during the terms of the Agreement with MFD maintain in force those insurance policies and bonds as designated in the attached Exhibit D, "Certificate of Insurance", and will comply with all those requirements as stated herein.

### **SECTION 6. INDEPENDENT CONTRACTOR**

It is understood and agreed that NCTI, in the performance of the work and services agreed to be performed by NCTI, shall act as and be an independent contractor and not an agent of the MFD.

### **SECTION 7. NONDISCRIMINATION**

NCTI shall not discriminate, in any way, against any person on the basis of age, sex, race, color, creed, sexual orientation, or national origin in connection with or related to the performance of this Agreement.

#### **SECTION 8. GOVERNING LAW**

NCTI and MFD agree that the law governing this Agreement shall be that of the State of California.

#### **SECTION 9. CONFORMITY WITH LAW AND SAFETY**

NCTI shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services or any part hereof, including all provisions the Occupational Safety and Health Act of 1979 and all amendments thereto, and all applicable federal, state, municipal, and local safety regulations. All services performed by NCTI must be in accordance with these laws, ordinances, codes and regulations.

If a death or serious personal injury or substantial property damage occurs in connection with the performance of this Agreement, NCTI shall immediately notify MFD by telephone. NCTI shall promptly submit to MFD a written report, in such form as may be required by MFD of all accidents which occur in connection with this Agreement.

#### **SECTION 10. CONFIDENTIALITY**

All data, documents, discussions, or other information received by either Party in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by Parties or as required by law. NCTI shall comply with all applicable local, state, and federal legal requirements concerning the confidentiality of any records relating to MFD's employees which are generated as the result of services performed by NCTI to this Agreement and with all requirements of the authority responsible for certifying MFD's employees as EMT-P's.

#### **SECTION 11. OWNERSHIP OF MATERIALS**

NCTI shall retain ownership of the documents and other written materials, such as program reports, course outlines, schedules, program of instruction, curricula, tests, skills scenarios, handbooks, and manuals ("materials") as used or developed in the performance of services under this Agreement; provided, however, that MFD shall have the non-exclusive right to use any such materials which are used or developed in the courses taught to MFD employees.

#### **SECTION 12. BOOKS AND RECORDS**

NCTI shall maintain any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to MFD for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to NCTI pursuant to this Agreement.

- A. NCTI shall maintain all documents and records, which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at any time during regular business hours, upon written request by County Council, County Administrator, Fire Chief, or a designated officer of any of these officers. Copies of such documents shall be provided to MFD for inspection and shall be available at NCTI's address indicated for receipt of notices in this Agreement.

### **SECTION 13. NOTICES**

All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To MFD: Bobby R. Dixon, Asst. Fire Chief  
777 S. Main Street  
Milpitas, CA 95035

To NCTI: Lawson Stuart, Director  
333 Sunrise Avenue, Suite 500  
Roseville, CA 95661

### **SECTION 14. SPECIAL PROVISIONS**

MFD shall provide equipment listed in Exhibit C for use by MFD employees and others enrolled in the training during the didactic portion of this Agreement.

### **SECTION 15. USE OF COUNTY PROPERTY**

MFD shall provide full access to NCTI or its representatives for the purposes of preparation and delivery of paramedic training. MFD shall designate classroom and meeting room facilities available for NCTI's use.

NCTI shall not use MFD premises property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.

#### **SECTION 16. DRUG-FREE WORKPLACE**

NCTI and NCTI's employees shall comply with the MFD's policy of maintaining a drug-free workplace.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.**

**MILPITAS FIRE DEPARTMENT**

By: \_\_\_\_\_  
Bobby R. Dixon

Date: \_\_\_\_\_

**NORTHERN CALIFORNIA TRAINING INSTITUTE**

By: \_\_\_\_\_  
Lawson Stuart, Director

Date: \_\_\_\_\_

## **EXHIBIT A**

### **SCOPE OF SERVICES**

NCTI shall provide qualified instructional staff and faculty to provide comprehensive paramedic training to MFD employees. Employees designated to receive the training shall meet the following minimum criteria:

- a. Pass HOBET entrance exam
- b. Show proof of completion of a college level anatomy & Physiology course within the last five (5) years, or complete a forty (40) hour, accelerated anatomy & physiology course offered by NCTI.
- c. Hold a current EMT-Basic certification.
- d. Be at least 18 years of age.
- e. Provide a copy of a high school diploma or G.E.D.

NCTI shall provide training to up to twenty-eight (28) firefighters and other individuals who meet State of California Paramedic licensure standards as set forth in the California Code of Regulations, Title 22, Social Security, Division 9 Pre-Hospital Emergency Medical Services. Training will include a didactic portion that consists of a minimum of four hundred eighty (480) hours, a hospital clinical portion that consists of a minimum of one hundred and sixty (160) hours, and a field internship that consists of a minimum of four hundred and eighty (480) hours, not to exceed a maximum of seven hundred twenty (720) and forty (40) advanced life support patient contacts.

Successful completion of the didactic portion of the training is dependent on the following:

- a. Acquiring 75% of all possible points during the course. Students must achieve this by the second major exam and must maintain this throughout the remainder of training.
- b. Successful completion of all skills, exams, rated on a pass/fail basis.
- c. Successful completion of all final written exams with a minimum score of 75%.
- d. Successful completion of ACLS, PEPP, and BTLS, or equivalents, according to the preset guidelines of each course.

NCTI shall provide and maintain responsibility for the provision of all instructors.

NCTI shall be responsible for all school related issues with students as outlined in NCTI's student contract and policies and procedures. The MFD retains authority over employee's adherence to all MFD policies, rules and regulations.

NCTI shall provide study material, binders, and clinical/internship manuals.



MFD shall provide the classroom facilities and MFD lab areas for the didactic portion of the training. In addition, the MFD will provide an area for storage cabinets in which equipment for the didactic portion of the training will be stored.

MFD shall share in the responsibility of providing audio-visual equipment through the provision of an InFocus-type projection unit. (NCTI will supply the computer necessary to operate the projection unit.).

## **EXHIBIT B**

### **Payment Terms and Conditions**

In consideration for NCTI's use of the MFD facilities, MFD shall receive a discount of \$11,000.00 per program. MFD may elect to use the discount to enroll MFD personnel in the program at no cost, reserve positions in the program to be used at their discretion, or receive the cash equivalent to be paid by NCTI to MFD prior to the start of each training class.

In the event MFD elects to enroll MFD personnel in the program, MFD employees shall be responsible for purchasing required textbooks, uniforms (department issued uniforms are acceptable), and internship fees.

In the event a student establishes an internship with other entities, there may or may not be fees associated with this process. These fee arrangements and/or payments would be directly between the MFD (for its employees) or private pay students and the agency providing the internship.

In the event additional training is required resulting from changes in Title 22 or requirements from organizations providing internships, the cost of such training shall be paid for by the MFD in separate agreements.

Services provided by NCTI in this Agreement do not include remedial training for students who fail any portion of the program (didactic, clinical or field internship). Remedial training plans will be established for any student, using pre-established programs wherever possible (i.e. repeat of ACLS, PEPP, or BTLS classes or attendance at any other pre-established Continuing Education courses offered by NCTI) at no additional cost. If it is decided by all parties involved, that remedial training requires one-on-one tutoring, this may be purchased either by MFD or by individual students at a rate of \$40.00/hour.

NCTI will compensate MFD at a maximum rate of one thousand two hundred dollars (\$1,200) per program for janitorial services. NCTI will compensate the MFD for said janitorial services to be paid within thirty (30) days of receiving an executed agreement. NCTI and MFD fully understand the monthly rate may be adjusted depending on services required. In the event the fees are adjusted, an amendment to this Agreement, detailing the adjusted fees will follow. This Agreement may only be modified by a written amendment duly executed by the parties to this Agreement.

NCTI will provide storage, removal and disposal of all biohazard materials generated by the training.

### **EXHIBIT C**

### **Audio-visual Equipment**

- 1 Television
- 1 Videocassette Recorder
- 1 Audio-Visual Screen; mounted in classroom
- Blinds or curtains to darken training room
- 2 Dry boards
- Extension cords as necessary
- In-Focus-type projector

## **EXHIBIT D**

### **Insurance**

NCTI, at NCTI's sole cost and expense, shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by NCTI, its agents, representatives, employees or subcontractors.

#### **A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage described in Insurance Services Office Form Number GL 0002 (Ed. 1/96) covering Commercial General Liability together with Insurance Services Office Form Number GL 0404 covering Broad Form Comprehensive General Liability; or that described in Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001 (Ed. 01/96); and
2. The coverage described in Insurance Services Office Form Number CA 0001 (Ed. 12/93) covering Automobile Liability, Code 1 "any auto", or Code 2 "owned autos". Coverage shall also include Code 8 "hired autos" and Code 9 "non-owned autos"; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions.

#### **B. Minimum Limits of Insurance**

NCTI shall maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 Aggregate Limit.

#### **C. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

- a. Insured. The MFD, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, NCTI; products and completed operations of NCTI; premises owned, leased or used by NCTI; and automobiles owned, leased, hired or borrowed by NCTI. The coverage shall contain no special limitations on the scope of protection afforded to MFD, its officers, employees, agents and contractors.
- b. Contribution Not Required. NCTI's insurance coverage shall be primary insurance as respects MFD, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by MFD, its officers, employees, agents or contractors shall be excess of NCTI's insurance and shall not contribute with it.
- c. Provisions Regarding the Insured's Duties After Accident or Loss. Any failure to comply with reporting provisions of the policies by NCTI shall not affect coverage provided MFD, its officers, employees, agents or contractors.
- d. Coverage. Coverage shall state that NCTI's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given.

**E. Verification of Coverage**

NCTI shall furnish MFD with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address:

Milpitas Fire Department  
777 S. Main Street  
Milpitas, CA 95035

**F. Subcontractors**

NCTI shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.